

HOUSE BILL 514

E2

0lr0557
CF 0lr1918

By: Delegates Shewell, Dumais, Ali, Anderson, Aumann, Barkley, Barnes, Barve, Bates, Beidle, Beitzel, Benson, Bohanan, Boteler, Branch, Bronrott, Burns, Carr, Carter, G. Clagett, Conway, DeBoy, Dwyer, Eckardt, Elliott, Feldman, Frank, Frick, Frush, Gaines, George, Gilchrist, Haddaway, Harrison, Haynes, Healey, Hecht, Hubbard, Hucker, Ivey, James, Jameson, Jenkins, Jennings, Kach, Kaiser, King, Kipke, Kirk, Krysiak, Kullen, Lafferty, Lee, Levi, Love, Manno, Mathias, McComas, McConkey, McDonough, Montgomery, Morhaim, Murphy, Nathan-Pulliam, Niemann, O'Donnell, Olszewski, Pena-Melnyk, Ramirez, Reznik, Rice, Riley, Robinson, Ross, Rudolph, Shank, Sossi, Stifler, Stocksdale, Stull, Tarrant, Taylor, F. Turner, Valderrama, Vaughn, Waldstreicher, and Weir

Introduced and read first time: February 1, 2010

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Seizure and Forfeiture – Property Used in Human**
3 **Trafficking**

4 FOR the purpose of authorizing a State or local law enforcement agency, on process
5 issued by a court of competent jurisdiction, to seize certain property used or
6 intended for use in connection with a violation of the law prohibiting human
7 trafficking; including in the prohibition against human trafficking a prohibition
8 against subjecting a person to involuntary servitude, peonage, debt bondage, or
9 slavery under certain circumstances; creating an Anti-Human Trafficking Fund
10 to be administered by the Executive Director of the Governor's Office of Crime
11 Control and Prevention; specifying the revenue sources for the Fund; providing
12 for certain disbursements from the Fund for certain purposes; authorizing the
13 seizure of certain property with or without a warrant under certain
14 circumstances; requiring the seizing authority that seizes money to take certain
15 actions; requiring the court to direct the defendant to forfeit seized property
16 under certain circumstances; requiring that a forfeiture hearing be held within
17 a certain time; requiring a hearing notice be served to certain owners at a
18 certain time; requiring notice be served in a certain manner under certain
19 circumstances; requiring the seizing authority to return property to a certain
20 person under certain circumstances; specifying that a certain forfeiture is

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 subject to the interest of a certain secured party; authorizing the governing body
 2 where the property was seized to take certain actions; requiring certain
 3 proceeds to be used for certain expenses; requiring that certain proceeds of the
 4 sale of forfeited property be distributed to the Fund for a certain purpose;
 5 defining certain terms; providing for the application of this Act; and generally
 6 relating to seizure and forfeiture of property used in connection with a violation
 7 of the human trafficking law.

8 BY repealing and reenacting, with amendments,
 9 Article – Criminal Law
 10 Section 11–303
 11 Annotated Code of Maryland
 12 (2002 Volume and 2009 Supplement)

13 BY adding to
 14 Article – Criminal Procedure
 15 Section 11–910(d) and 11–920; and 13–501 through 13–509 to be under the new
 16 subtitle “Subtitle 5. Violations of the Human Trafficking Law”
 17 Annotated Code of Maryland
 18 (2008 Replacement Volume and 2009 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article – Criminal Law**

22 11–303.

23 (a) (1) A person may not knowingly:

24 (i) take or cause another to be taken to any place for
 25 prostitution;

26 (ii) place, cause to be placed, or harbor another in any place for
 27 prostitution;

28 (iii) persuade, induce, entice, or encourage another to be taken to
 29 or placed in any place for prostitution;

30 (iv) unlawfully take or detain another with the intent to use
 31 force, threat, or persuasion to compel the other to marry the person or a third person
 32 or perform a sexual act, sexual contact, or vaginal intercourse; or

33 (v) receive consideration to procure for or place in a house of
 34 prostitution or elsewhere another with the intent of causing the other to engage in
 35 prostitution or assignation; **OR**

1 (VI) 1. RECRUIT, HARBOR, TRANSPORT, PROVIDE, OR
2 OBTAIN A PERSON FOR LABOR OR SERVICES; AND

3 2. THROUGH FORCE, FRAUD, OR COERCION,
4 SUBJECT THE PERSON TO INVOLUNTARY SERVITUDE OR DEBT BONDAGE.

5 (2) A parent, guardian, or person who has permanent or temporary
6 care or custody or responsibility for supervision of another may not consent to the
7 taking or detention of the other for prostitution.

8 (b) A person may not violate subsection (a) of this section involving a victim
9 who is a minor.

10 (c) (1) (i) Except as provided in paragraph (2) of this subsection, a
11 person who violates subsection (a) of this section is guilty of the misdemeanor of
12 human trafficking and on conviction is subject to imprisonment not exceeding 10 years
13 or a fine not exceeding \$5,000 or both.

14 (ii) A person who violates subsection (a) of this section is subject
15 to § 5–106(b) of the Courts Article.

16 (2) A person who violates subsection (b) of this section is guilty of the
17 felony of human trafficking and on conviction is subject to imprisonment not exceeding
18 25 years or a fine not exceeding \$15,000 or both.

19 (d) A person who violates this section may be charged, tried, and sentenced
20 in any county in or through which the person transported or attempted to transport
21 the other.

22 Article – Criminal Procedure

23 11–910.

24 (D) “EXECUTIVE DIRECTOR” MEANS THE EXECUTIVE DIRECTOR OF
25 THE GOVERNOR’S OFFICE OF CRIME CONTROL AND PREVENTION.

26 11–920.

27 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
28 MEANINGS INDICATED.

29 (2) “FUND” MEANS THE ANTI–HUMAN TRAFFICKING FUND.

30 (3) “HUMAN TRAFFICKING” MEANS ANY VIOLATION OF § 11–303
31 OF THE CRIMINAL LAW ARTICLE.

1 **(B) THERE IS AN ANTI-HUMAN TRAFFICKING FUND.**

2 **(C) THE PURPOSE OF THE FUND IS TO PROVIDE FUNDING FOR:**

3 **(1) AID FOR VICTIMS OF HUMAN TRAFFICKING; AND**

4 **(2) FUNDING FOR LAW ENFORCEMENT, NONPROFIT, AND PRIVATE**
5 **ORGANIZATIONS THAT ENGAGE IN ACTIVITIES TO COMBAT HUMAN**
6 **TRAFFICKING.**

7 **(D) THE EXECUTIVE DIRECTOR SHALL ADMINISTER THE FUND.**

8 **(E) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT**
9 **SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

10 **(2) THE STATE TREASURER SHALL HOLD THE FUND**
11 **SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.**

12 **(F) THE FUND CONSISTS OF:**

13 **(1) REVENUE DISTRIBUTED TO THE FUND UNDER § 13-509 OF**
14 **THIS ARTICLE;**

15 **(2) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;**
16 **AND**

17 **(3) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR**
18 **THE BENEFIT OF THE FUND.**

19 **(G) (1) AT LEAST 50% OF THE MONEY IN THE FUND SHALL BE GIVEN**
20 **TO NONPROFIT OR PRIVATE ORGANIZATIONS THAT:**

21 **(I) PROVIDE DIRECT SERVICES TO VICTIMS OF HUMAN**
22 **TRAFFICKING;**

23 **(II) CONDUCT PROGRAMS FOR THE PREVENTION OF HUMAN**
24 **TRAFFICKING; OR**

25 **(III) CONDUCT EDUCATION, TRAINING, OR PUBLIC**
26 **OUTREACH PROGRAMS ABOUT HUMAN TRAFFICKING.**

27 **(2) AFTER THE DISTRIBUTION UNDER PARAGRAPH (I) OF THIS**
28 **SUBSECTION, THE BALANCE OF THE MONEY IN THE FUND SHALL BE USED FOR**
29 **THE PURPOSES SPECIFIED IN PARAGRAPH (1) OF THIS SUBSECTION AND TO**

1 PROVIDE FUNDING FOR LAW ENFORCEMENT ORGANIZATIONS THAT RESPOND
2 TO AND INVESTIGATE HUMAN TRAFFICKING VIOLATIONS.

3 (H) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE
4 FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

5 (2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE
6 CREDITED TO THE GENERAL FUND OF THE STATE.

7 (I) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN
8 ACCORDANCE WITH THE STATE BUDGET.

9 (J) MONEY EXPENDED FROM THE FUND FOR VICTIMS OF HUMAN
10 TRAFFICKING AND TO FINANCE ACTIVITIES THAT COMBAT HUMAN TRAFFICKING
11 IS SUPPLEMENTAL TO AND IS NOT INTENDED TO TAKE THE PLACE OF FUNDING
12 THAT OTHERWISE WOULD BE APPROPRIATED FOR VICTIMS OF HUMAN
13 TRAFFICKING OR ACTIVITIES THAT COMBAT HUMAN TRAFFICKING.

14 SUBTITLE 5. VIOLATIONS OF THE HUMAN TRAFFICKING LAW.

15 13-501.

16 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
17 INDICATED.

18 (B) "HUMAN TRAFFICKING LAW" MEANS § 11-303 OF THE CRIMINAL
19 LAW ARTICLE.

20 (C) (1) "OWNER" MEANS A PERSON HAVING A LEGAL, EQUITABLE, OR
21 POSSESSORY INTEREST IN PROPERTY.

22 (2) "OWNER" INCLUDES:

23 (I) A CO-OWNER;

24 (II) A LIFE TENANT;

25 (III) A REMAINDERMAN TO A LIFE TENANCY IN REAL
26 PROPERTY;

27 (IV) A HOLDER OF AN INCHOATE INTEREST IN REAL
28 PROPERTY; AND

29 (V) A BONA FIDE PURCHASER FOR VALUE.

1 **(D) (1) "PROPERTY" INCLUDES:**

2 **(I) REAL PROPERTY AND ANYTHING GROWING ON OR**
3 **ATTACHED TO REAL PROPERTY;**

4 **(II) TANGIBLE AND INTANGIBLE PERSONAL PROPERTY,**
5 **INCLUDING:**

6 **1. SECURITIES;**

7 **2. NEGOTIABLE AND NONNEGOTIABLE**
8 **INSTRUMENTS;**

9 **3. VEHICLES AND CONVEYANCES OF ANY TYPE;**

10 **4. PRIVILEGES;**

11 **5. INTERESTS;**

12 **6. CLAIMS; AND**

13 **7. RIGHTS;**

14 **(III) AN ITEM, OBJECT, TOOL, SUBSTANCE, DEVICE, OR**
15 **WEAPON USED IN CONNECTION WITH A VIOLATION OF THE HUMAN**
16 **TRAFFICKING LAW; AND**

17 **(IV) MONEY.**

18 **(2) "PROPERTY" DOES NOT INCLUDE:**

19 **(I) AN ITEM UNLAWFULLY IN THE POSSESSION OF A**
20 **PERSON OTHER THAN THE OWNER WHEN USED IN CONNECTION WITH A**
21 **VIOLATION OF THE HUMAN TRAFFICKING LAW; OR**

22 **(II) A LESSOR'S INTEREST IN PROPERTY SUBJECT TO A**
23 **BONA FIDE LEASE, UNLESS THE FORFEITING AUTHORITY CAN SHOW THAT THE**
24 **LESSOR PARTICIPATED IN A VIOLATION OF THE HUMAN TRAFFICKING LAW OR**
25 **THAT THE PROPERTY WAS THE PROCEEDS OF A VIOLATION OF THE HUMAN**
26 **TRAFFICKING LAW.**

27 **(E) (1) "REAL PROPERTY" MEANS LAND OR AN IMPROVEMENT TO**
28 **LAND.**

1 **(2) “REAL PROPERTY” INCLUDES:**

2 **(I) A LEASEHOLD OR OTHER LIMITED INTEREST IN**
3 **PROPERTY;**

4 **(II) AN EASEMENT; AND**

5 **(III) A REVERSIONARY INTEREST IN A 99-YEAR GROUND**
6 **LEASE RENEWABLE FOREVER.**

7 **13-502.**

8 **EXCEPT AS PROVIDED IN § 13-503 OF THIS SUBTITLE, A STATE OR LOCAL**
9 **LAW ENFORCEMENT AGENCY, ON PROCESS ISSUED BY A COURT OF COMPETENT**
10 **JURISDICTION, MAY SEIZE:**

11 **(1) CONVEYANCES, INCLUDING AIRCRAFT, VEHICLES, OR**
12 **VESSELS USED OR INTENDED TO BE USED IN CONNECTION WITH A VIOLATION**
13 **OF THE HUMAN TRAFFICKING LAW;**

14 **(2) BOOKS, RECORDS, TELECOMMUNICATION EQUIPMENT, OR**
15 **COMPUTERS USED OR INTENDED TO BE USED IN CONNECTION WITH A**
16 **VIOLATION OF THE HUMAN TRAFFICKING LAW;**

17 **(3) MONEY OR WEAPONS USED OR INTENDED TO BE USED IN**
18 **CONNECTION WITH A VIOLATION OF THE HUMAN TRAFFICKING LAW;**

19 **(4) REAL PROPERTY USED OR INTENDED TO BE USED IN**
20 **CONNECTION WITH A VIOLATION OF THE HUMAN TRAFFICKING LAW; AND**

21 **(5) EVERYTHING OF VALUE FURNISHED, OR INTENDED TO BE**
22 **FURNISHED, IN EXCHANGE FOR AN ACT IN VIOLATION OF THE HUMAN**
23 **TRAFFICKING LAW, ALL PROCEEDS TRACEABLE TO THE EXCHANGE, AND ALL**
24 **NEGOTIABLE INSTRUMENTS AND SECURITIES USED, OR INTENDED TO BE USED,**
25 **TO FACILITATE A VIOLATION OF THE HUMAN TRAFFICKING LAW.**

26 **13-503.**

27 **A MEMBER OF A STATE OR LOCAL LAW ENFORCEMENT AGENCY, ON**
28 **PROCESS ISSUED BY A COURT OF COMPETENT JURISDICTION, MAY SEIZE**
29 **PROPERTY DESCRIBED IN THIS SUBTITLE WITHOUT A WARRANT WHEN THE**
30 **SEIZURE IS:**

- 1 (1) INCIDENT TO AN ARREST;
- 2 (2) INCIDENT TO A SEARCH MADE UNDER A SEARCH WARRANT;
- 3 (3) MADE IN ACCORDANCE WITH A VALID CONSENT TO SEARCH;
- 4 OR
- 5 (4) MADE WITH PROBABLE CAUSE TO BELIEVE THAT THE
- 6 PROPERTY HAS BEEN USED OR IS INTENDED TO BE USED IN CONNECTION WITH
- 7 A VIOLATION OF THE HUMAN TRAFFICKING LAW.

8 **13-504.**

9 (A) THE SEIZING AUTHORITY THAT SEIZES MONEY UNDER THIS

10 SUBTITLE SHALL IMMEDIATELY:

11 (1) PHOTOGRAPH THE MONEY AND RECORD THE QUANTITY OF

12 EACH DENOMINATION OF COIN OR CURRENCY SEIZED; AND

13 (2) DEPOSIT THE MONEY TO THE ACCOUNT OF THE APPROPRIATE

14 LOCAL FINANCIAL AUTHORITY.

15 (B) A PHOTOGRAPH TAKEN UNDER SUBSECTION (A) OF THIS SECTION

16 MAY BE SUBSTITUTED FOR MONEY AS EVIDENCE IN A CRIMINAL OR FORFEITURE

17 PROCEEDING.

18 **13-505.**

19 IF A DEFENDANT IS FOUND GUILTY OF A VIOLATION OF THE HUMAN

20 TRAFFICKING LAW, THE COURT SHALL DIRECT THE DEFENDANT TO FORFEIT

21 THE PROPERTY SEIZED IN ACCORDANCE WITH THIS SUBTITLE.

22 **13-506.**

23 (A) WITHIN 60 DAYS AFTER THE SEIZURE, THE COURT SHALL HOLD A

24 FORFEITURE HEARING.

25 (B) AT LEAST 10 DAYS BEFORE THE DAY OF THE HEARING, THE OWNER

26 OF THE PROPERTY SHALL BE SERVED NOTICE OF THE HEARING, INCLUDING A

27 GENERAL DESCRIPTION OF THE PROPERTY AND AVAILABLE SERIAL OR

28 REGISTRATION NUMBERS.

29 (C) IF THE OWNER OF PROPERTY TO BE FORFEITED IS NOT

30 REASONABLY DISCOVERABLE, THE SEIZING LAW ENFORCEMENT AGENCY MAY

1 SERVE NOTICE BY PUBLISHING A NOTICE OF THE FORFEITURE HEARING IN A
2 NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY IN WHICH THE
3 HEARING IS TO BE HELD AT LEAST 10 DAYS BEFORE THE DAY OF THE HEARING.

4 (D) THE SEIZING LAW ENFORCEMENT AGENCY SHALL RETURN THE
5 PROPERTY TO THE OWNER ON A SHOWING THAT:

6 (1) THE OWNER DID NOT KNOW OF OR CONSENT TO A VIOLATION
7 OF THE HUMAN TRAFFICKING LAW; OR

8 (2) THE SEIZURE OF THE PROPERTY WAS MADE OR THE HEARING
9 NOTICE WAS SERVED IN VIOLATION OF THIS SUBTITLE.

10 13-507.

11 A FORFEITURE OF PROPERTY ENCUMBERED BY A BONA FIDE SECURITY
12 INTEREST IS SUBJECT TO THE INTEREST OF A SECURED PARTY WHO DID NOT
13 KNOW OF OR CONSENT TO THE ACT OR OMISSION CONSTITUTING A VIOLATION
14 OF THE HUMAN TRAFFICKING LAW.

15 13-508.

16 IF PROPERTY IS FORFEITED UNDER THIS SUBTITLE, THE GOVERNING
17 BODY WHERE THE PROPERTY WAS SEIZED MAY:

18 (1) KEEP THE PROPERTY FOR OFFICIAL USE;

19 (2) REQUIRE AN APPROPRIATE UNIT TO TAKE CUSTODY OF THE
20 PROPERTY AND DESTROY OR OTHERWISE DISPOSE OF IT; OR

21 (3) SELL THE PROPERTY IF:

22 (I) THE LAW DOES NOT REQUIRE THE PROPERTY TO BE
23 DESTROYED; AND

24 (II) THE PROPERTY IS NOT HARMFUL TO THE PUBLIC.

25 13-509.

26 (A) THE PROCEEDS FROM A SALE OR THE RETENTION OF PROPERTY
27 DECLARED TO BE FORFEITED AND ANY INTEREST ACCRUED SHALL BE APPLIED,
28 FIRST, TO THE PROPER EXPENSES OF THE PROCEEDING FOR FORFEITURE AND
29 RESULTING SALE, INCLUDING THE EXPENSE OF SEIZING AND MAINTAINING
30 CUSTODY OF THE PROPERTY AND ADVERTISING.

1 **(B) ANY BALANCE REMAINING AFTER THE DISTRIBUTION REQUIRED**
2 **UNDER SUBSECTION (A) OF THIS SECTION SHALL BE DISTRIBUTED TO THE**
3 **ANTI-HUMAN TRAFFICKING FUND UNDER § 11-920 OF THIS ARTICLE.**

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
5 construed to apply only prospectively and may not be applied or interpreted to have
6 any effect on or application to any offense committed before the effective date of this
7 Act.

8 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2010.